

# STATE OF COLORADO

Roy Romer, Governor  
Patti Shwayder, Acting Executive Director

*Dedicated to protecting and improving the health and environment of the people of Colorado*

## HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION

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Colorado Department  
of Public Health  
and Environment

June 8, 1995

Mr. Steven W. Slaten  
U. S. Department of Energy  
Rocky Flats Office, Bldg 116  
P.O. Box 928  
Golden, Colorado 80402-0928

RE: OU 1 Proposed Plan

Dear Mr. Slaten,

The Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division (the Division), and the Environmental Protection Agency (EPA) have reviewed the May 25, 1995 version of the OU 1 Proposed Plan (PP) submitted by DOE. This was to have been the "draft final" version prepared for release to public comment. We are also in receipt of your June 6, 1995, letter (95-DOE-08443) regarding OU 1.

Based on our phone conversations of June 7 and 8, 1995, the Division and EPA hereby disapprove the May 25, 1995 version of the OU 1 Proposed Plan. The PP is functionally deficient in several ways and does not present a remedial action plan that is protective of human health and the environment. In its present form, this document is not appropriate to release for public review.

In order to obtain our approval of the OU 1 Proposed Plan, the following items must be incorporated:

1. The proposed action must be changed from "No Action" to "Monitoring with Access/Future Use Controls." Currently, the plan is entitled "No Action" when, in fact, it proposes ground water monitoring and its protectiveness is dependent upon, though does not propose, access controls and use limitations.
2. All of the alternatives that have been evaluated by DOE and the regulators must be presented in the PP with associated accurate costs. In addition, an analysis of each alternative against the nine CERCLA criteria must be included.
3. DOE must incorporate examples of potential mitigating actions they will implement should the proposed monitoring detect contaminant movement (detections of contaminants in previously uncontaminated areas).
4. Monitoring must be continued until DOE can demonstrate that ground water quality standards have been attained and that residual contamination in vadose soils is not sufficient to degrade ground water such that ground water quality standards are exceeded in the future.
5. Institutional controls must be incorporated into the proposed plan to ensure that the potential exposure pathways that result in unacceptable risks from OU 1 contamination are never allowed to become complete.

Items 1 and 2 are necessary to fully and honestly communicate to the public what is being proposed.

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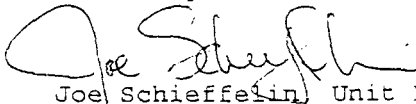
Items 3, 4, and 5 are necessary to complete a description of a remedy that is fully protective of human health and the environment.

DOE must either concur with these five stipulations or invoke the dispute resolution process in accordance with terms of the IAG. It is our belief that specific approval for release of a document to public comment must occur before public comment commences. If issues associated with the project and/or decision document remain at the point in the IAG process immediately preceding public comment, the parties should enter the dispute resolution process and allow this process to resolve the issues. At the conclusion of the dispute process, all parties will have a clear understanding of the path forward and a coherent credible product for public review. At this point it is worth noting that, though OU 1 is a joint-lead operable unit, DOE disputes will go through the CDPHE Dispute Resolution Process.

It is our belief that releasing the May 25, 1995 version of the proposed plan to public comment at this time by DOE would be a mistake, particularly because the document is specifically disapproved. Should DOE release the OU 1 PP now, the public trust will have been compromised, Paragraph 155 of the IAG will have been violated, and DOE will have publicly repudiated their commitment to the "consultative process."

If you have any questions regarding these matters, please call us.

Sincerely,



Joe Schieffelin, Unit Leader  
Rocky Flats IAG Unit  
Hazardous Waste Control Program



Martin Hestmark, Manager  
Rocky Flats Project  
Region VIII, EPA

cc: Martin Hestmark, EPA  
Dan Miller, AGO  
Tom Looby, CDPHE-OE  
Jackie Berardini, CDPHE-OE  
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